

CIVIL MISC. APPEAL No. 714 of 2004

MISS PRIYA & ORS

V/S

NEW INDIA ASSURANCE CO.LTD. & ORS

Mr. MANISH PITALIYA, for the appellant / petitioner

Date of Order : 17.1.2005

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned counsel for the appellants.

The only contention raised by learned counsel for the appellants, is, that the amount of compensation awarded by the learned Tribunal is inadequate. The deceased was found to be working as Chairman of M/s. Kinariwala Company, and according to the certificate available on record, he was earning Rs. 3,01,000/- per year. The learned Tribunal has assessed the dependency of the family at Rs. 2,32,000/- per year. Applying the multiplier of 13, compensation of Rs. 31,50,000/- has been awarded. The claimants are mother, father and two minor daughters of the deceased. It appears that in this very unfortunate accident, wife of the deceased also expired, for which a separate claim was lodged, being claim No.461/01 by the daughters, wherein compensation of Rs. 2,01,600/- was awarded. It is contended by learned counsel for the appellants, that multiplier employed being 13 is low, and according to Schedule appended to the Motor Vehicles Act, multiplier should have been 16. Learned counsel for the appellants relies upon the observations made by Hon'ble Supreme Court in the case **Abati Bezbaruah Vs. Deputy Director, General Geological Survey of India and anr.** reported in 2003(2) T.A.C.,18(SC) and **Supe Dei and ors. Vs. National Insurance Co. Ltd. and anr.** reported in 2002(3) T.A.C.,378 (SC).

I have gone through the Judgments.

In Supe Devi's case (supra), the Hon'ble Supreme Court ofcourse interfered with multiplier employed by High Court being 15, and

increased it to that of 17, while in Abati Bezbaruah's case (supra), multiplier of 15 as employed by learned Tribunal was maintained, and while maintaining the multiplier, it was observed that payment of compensation on the basis of structured formula as provided in second Schedule should not normally be deviated, as it gives guide-lines for determination of the amount of compensation in terms of Sec. 166. It was further observed that, deviation of the structured formula, however, may be resorted to in exceptional cases, and that amount of compensation should be just and fair in the facts and circumstances of each case. In Supe Dei's case (supra), deceased was low paid employee, and looking to the total compensation awarded, the Hon'ble Supreme Court felt inclined to enhance the multiplier. It is different story that even after enhancing the multiplier, the compensation was not of the amount as payable according to Schedule.

Be that as it may, following the observations made in Abati Bezbaruah's case (supra) that deviation may be resorted to in exceptional cases. What appears from the Schedule, is that the multiplier is provided to be applied depending on the age of deceased, and it has been provided for cases where the deceased was found to be earning a specified amount. The maximum being 40,000/- per year. Obviously, on the face of it, this is not required to be applied as mathematical formula in the cases where the deceased was having fabulous income, as the one in the present case. In such cases, of course an adequate compensation, commensurate to the income of deceased, is required to be awarded by employing suitable multiplier, but then multiplier as prescribed in second Schedule is not required to be insisted upon with mathematical precision. Looking to the amount of compensation awarded being Rs. 31,50,000/-, in my view, it cannot be said that compensation awarded is shockingly low requiring interference in appeal.

The appeal thus has no force, and is hereby dismissed.

(N P GUPTA), J.

/Srawat/